THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19283 of 2005

01.9.2005

Between:

1. Yerrolla Ramulu, S/o.Rajanna, Agriculture, Limba-K Village,

Kuntala Mandal, Adilabad District.

And another.

… Petitioners.

AND

1. Mandal Revenue Officer, Kuntala Mandal, Adilabad District.

And another.

… Respondents.

ORDER:

The petitioners are residents of Limba-K village, kuntala Mandal, Hyderabad District. Aggrieved by the proceedings of the first respondent dated 03.6.2005 prohibiting all persons from entering the land in Survey Nos.237 of Limba-K village, the petitioners filed the present writ petition. In a nutshell, it is their case that the first petitioner is the owner of Acs.4.03 gts. and second petitioner is the owner of equal extent of land. This land is comprised in Survey No.237 of Limba-K village and according to the petitioners, the Mandal Revenue Officer, who is not the Executive Magistrate for the purpose of Section 145 of Code of Criminal Procedure, 1973 (Cr.PC) without any justifiable cause promulgated the order under Section 145(1) of Cr.PC.

Heard the learned Counsel for the petitioners, Sri P.Venkat Reddy, and the learned Assistant Government Pleader, Sri Suryakaran Reddy. A reading of the order impugned in the writ petition would show that a case in respect of Survey Nos.237 and 265 is pending before the Revenue Divisional Officer between the petitioners and one Smt.Raju bai in whose favour supplementary sethwer was issued in respect of the same land. Smt.Shakunthala gave an application to the Mandal Revenue Officer and the Mandal Revenue Officer based on such complaint came to the conclusion that as it is monsoon season and there is a dispute between the parties for ploughing the land and seed sewing. So as to avoid any such precepitatory law and order problem, the impugned order was issued.

As per the provisions of Section 145 of Cr.PC, when an order is passed under Section 145(1) of Cr.P.C., it is always open to the aggrieved person to move the Executive Magistrate by placing necessary material and ask for vacating the said

order. After considering such application, it is open to the Mandal Revenue Officer either to entrust possession to one of the quarrelling parties or direct any other official to take possession of the parties. Without availing this remedy, the petitioners have directly approached this Court. It is stated that a dispute is raised by Smt. Raju bai against the petitioners and it is pending before the Revenue Divisional Officer.

As there is a factual dispute involved in the case, this Court is of considered opinion that the matter should be decided by the Mandal Revenue Officer. Liberty is given to the petitioner to move an application before the Mandal Revenue Officer within a period of one week from the date of receipt of a copy of this order. As and when such application is filed, the Mandal Revenue Officer may give reasonable opportunity to both the parties and decide the matter within one week thereafter on the application filed by the petitioners for vacating the orders dated 03.6.2005.

The writ petition, with the above observations and directions, disposed of. No costs.

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(**V.V.S.RAO,J**)

September 01, 2005.

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